

Appl. No. 10/633,970
Any. Docket No. 9153R
Appellant Brief April 6, 2003
Reply to Office Action of December 2, 2004
Notice of Appeal February 25, 2005
Customer No. 27732

**RECEIVED
CENTRAL FAX CENTER**

APR 06 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/633,970
Appellant(s) : Cimiluca et al.
Filed : August 4, 2003
Title : COMPOSITION COMPRISING A PLURALITY OF PARTICLES
OR AGGLOMERATES HAVING A DEFINED PARTICLE SIZE
TC/A.U. : 1623
Examiner : E. White
Conf. No. : 5176
Docket No. : 9153R
Customer No. : 27752

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision mailed December 2, 2004 finally rejecting Claims 1-59. A Notice of Appeal was timely filed on February 25, 2005.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-59 are finally rejected. Claims 1-59 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

Appl. No. 10/633,970
Aty. Docket No. 9153R
Appellant Brief April 6, 2005
Reply to Office Action of December 2, 2004
Notice of Appeal February 25, 2005
Customer No. 27752

culled from the prior art to fit parameters." *See ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 48 USPQ2d 1321 (Fed. Cir. 1998). "There should be something in the prior art or a convincing line of reasoning in the answer suggesting the desirability of combining the reference in such a manner as to arrive at the claimed invention." *In re Dembiczak* 175 F.3d 994, 999 (Fed. Cir. 1999).

Therefore, Appellants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

SUMMARY

In view of all of the above, it is respectfully submitted that the aforementioned rejections are erroneous. The Board's reversal of the rejections is respectfully requested.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By Cynthia L. Clay
Signature

Cynthia L. Clay
Typed or printed name
Registration No. 54,930
(513) 622-0291

April 6, 2005

Customer No. 27752